



# Lexington Police Department

Lexington, Kentucky

## GENERAL ORDER

BY THE AUTHORITY OF THE CHIEF OF POLICE

**G.O. 2015-15**

### **Body-Worn Cameras**

Rescinds: NA

References: CALEA Chapter(s)

Effective Date: 07/22/16

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## **I. PURPOSE**

The purpose of this order is to provide officers with guidelines on the use and management of body-worn cameras (BWCs) so that officers may reliably record their contacts with the public in accordance with the law.

## **II. POLICY**

It is the policy of the Lexington Police Department that body-worn cameras are intended to assist officers in the performance of their duties and to provide an audio and video record of contacts and interactions with citizens, suspects, and others in a wide variety of situations. The use of BWCs provides documentary evidence for criminal investigations and internal or administrative investigations.

It is also the policy of the department that officers shall utilize BWCs in accordance with the provisions of this policy to maximize the effectiveness of the audio and video documentation, to achieve operational objectives and to ensure evidence integrity.

It is also the policy of the department that officers shall utilize their BWC's consistent with the Fourth Amendment to the United States Constitution, Section 10 of the Kentucky Constitution and otherwise clearly established statutory law and judicial decisional authority.

## **III. DEFINITIONS**

*End User:* BWC User with individual account access rights the current department storage solution.

*Event Mode:* In the Event Mode, the BWC saves the buffered video, and continues recording audio and video for up to eight hours.

*Evidence Transfer Manager (ETM):* Docking stations physically installed at a location(s) within the department. The ETM simultaneously recharges the device while uploading all digitally encrypted data. The ETM then transfers the data to the current department storage solution. The ETM ensures that evidence handling is secured and that data is not altered.

*File:* For the purpose of this document, the term "file" refers to all sounds, images, and associated metadata.

*Law Enforcement Contact:* contacts with citizens, investigative or otherwise, that occur within the performance of an officer's official duties. (e.g., pedestrian and vehicle stops, consensual encounters, calls for service, motorist assists, etc.).

*Media/data:* Includes photographs, audio recordings and video footage. The media is stored digitally.

*Normal (Buffering) Mode:* The body camera continuously loops video recording for up to 30 seconds before recording is started by the officer. Records video (no audio) while buffering.

*Storage Solution:* Digital media storage solution. The storage solution stores digitally encrypted data in a highly secure environment accessible to authorized department employees. Accessibility is limited based upon the level of security clearance assigned to the employee.

*System Administrator:* Employee with full access to user rights and website. Assigns and tracks equipment; controls passwords; conducts quality checks of uploaded data; coordinates data retention. The department's system administrator is designated by the Chief of Police.

NOTE: Audio or video recordings of investigative or enforcement actions are evidence, and subject to rules of disclosure. The department regulates and controls all forms of evidence collection and storage.

## **IV. PROCEDURES**

### **A. General Provisions**

1. The Lexington Police Department has adopted the use of body-worn cameras to accomplish several objectives, including:
  - a. To enhance public trust by preserving representations of officer-citizen contacts in the form of audio/visual recordings.
  - b. To enhance officer safety.
  - c. BWCs allow for documentation of police-public contacts, arrests, and critical incidents. They also serve to enhance officer reports and testimony in court.
  - d. Audio and video recordings also enhance the department's ability to review probable cause for arrest, officer and suspect interaction, and evidence for investigative and prosecutorial purposes and to provide additional information for officer evaluation and training.
  - e. The BWC may also be useful in documenting crime and collision scenes or other events that include the confiscation and documentation of evidence or contraband.
  - f. To allow for supervisory review of officer-citizen contacts, critical incidents, and other police operations.
2. Officers are only authorized to use department assigned body camera equipment. The wearing of any other personal video recorder is not authorized.
3. Department assigned body camera equipment shall not be used for non-official business.
4. All video collected by officers assigned or using the issued BWC is considered property of

the Lexington Police Department.

- a. No officer will review, access, copy, upload/download, post, or release files for personal or non-law enforcement related purposes or any other reason other than as described in this policy, unless authorized by the Chief of Police or designee.
5. Department assigned body camera equipment shall only be utilized by officers who have completed a department approved and/or provided training program in its use.
  - a. Additional training may be required at periodic intervals to ensure the continued effective use and operation of the equipment and to incorporate changes, updates, or other revisions in policy and equipment.
6. In general, officers should not activate a BWC in places where an individual unrelated to the investigation would have a reasonable expectation of privacy, such as a locker room, changing room, restroom, doctor's office examination rooms, or other similar place(s).
  - a. Use of a BWC in a hospital setting shall be limited to investigative use only. Officers will not intentionally record a patient's medical interaction and procedures with hospital personnel unless it directly relates to the investigation.
  - b. When in a hospital emergency room, gym locker room, other similar place(s), and areas where juveniles may be present, and when possible, officers should attempt to avoid the recording of images that may depict medical or personal information of third parties unrelated to the investigation.
7. Prior to conducting strip searches, officers shall video and audio record a 360° view of the location where the strip search will take place. However, officers shall only record the audio portion of the actual strip search by positioning the camera away from the person on whom the strip search is being conducted.
8. Whenever an officer believes that a recorded contact may lead to a citizen complaint, he or she should bring the recording to the attention of his or her supervisor as soon as possible.
9. Officers are responsible to use BWC equipment with reasonable care to ensure proper functioning. Equipment malfunctions, theft, the loss of, or damage to any part of the body camera equipment shall be immediately reported to their supervisor.
10. Officers shall not allow citizens to review BWC recordings unless authorized by a supervisor.

## **B. Officer Responsibilities**

### **1. When and How to Use the BWC**

- a. Officers shall activate the BWC to record all law enforcement contacts.
  1. Officers shall place the BWC in the "Event Mode" as soon as practical at the onset of a given situation.

a. The officer shall also place the BWC in “Event Mode” whenever he or she operates his or her vehicle as an emergency vehicle, as defined by KRS 189.940 and as described in GO series 2011-08 Emergency and Pursuit Driving.

2. Once in the Event Mode, officers shall continue to record until the completion of the event, they have left the scene, and/or they have transferred custody of the prisoner to another law enforcement officer. This is to include the recording of associated statements.

a. Officers shall not discontinue recording unless the person wishes to submit an anonymous tip, in which the decision to record is at the discretion of the officer and, in the opinion of the officer, the value of the information outweighs the recording.

b. The BWC shall remain activated until the event is completed in order to ensure the integrity of the recording unless the contact moves into an area restricted by this policy. [See IV. B. 3. b. 1-4 below]

c. If an officer fails to activate the BWC, fails to record the entire contact, or makes a conscious decision to not record or to interrupt the recording, the officer shall document the circumstances and include an explanation.

1. If a conscious decision was made, the explanation shall be made on the recording prior to the termination.

2. If a recording was not made, then this should be documented in any documents generated for the event. If no documents are generated, and the recording should have been made, then a memorandum shall be completed and forwarded through the chain of command to the Public Integrity Unit.

3. Additional arriving officers to a scene shall place their BWC in the Event Mode upon arrival, or while responding to the scene as an emergency vehicle, and shall continue to record as described in 2 above.

4. An officer who transports a prisoner will continue to record throughout the transport process until the transfer of custody of the prisoner is completed and they have physically left the detention facility.

b. Nothing in this policy shall prohibit an officer from activating their BWC whenever they deem the use of the camera appropriate and/or valuable to document an incident.

## 2. Procedures for BWC Use

a. Officers who are assigned BWC equipment shall wear and use the equipment they were issued while on duty or working an off-duty assignment in uniform unless

otherwise authorized by a supervisor.

1. Officers shall not utilize other officers' assigned BWC equipment at any time.
  2. Officers shall position the camera on either the officer's head or collar of their uniform to facilitate optimum recording field of view.
- b. Officers shall inspect and test the BWC prior to each shift in order to verify proper functioning and that it is appropriately charged, and shall notify their supervisor of any problems.
1. Only fully operational systems shall be used.
  2. If a BWC malfunctions or becomes inoperable during an officer's shift, the officer shall immediately report the issue to a supervisor. This shall be noted in all written reports so that there is a consistent record.
  3. Officers shall not attempt to make repairs to BWC equipment.
- c. Officers are encouraged to inform their supervisor of any recording that may be of value for training purposes.
- d. Officers shall note one of the following statements in a citation and other related documents:
1. "No BWC present"
  2. "BWC present- not activated"
  3. "BWC present- activated- not reviewed"
  4. "BWC present- activated- reviewed"

Note: 'Reviewed' or 'not reviewed' refers to whether or not the BWC video was reviewed prior to completing the document(s).

- e. BWC recordings are not a replacement for written reports.
- f. Officers shall upload all captured BWC video at the end of their shifts or assignments. Videos captured in an off duty situation shall be uploaded at the beginning of the next shift or within 3 days of the encounter, whichever is shorter.
- g. Officers who are issued BWC shall utilize their BWC in accordance with this policy at special and/or large scale events (events include, but are not limited to: UK home football games, civil disturbances, Fourth of July Festival, Roots and Heritage, preplanned NCAA events, etc).
1. The use of BWC for recording at special and/or large scale events can be limited or altered at the discretion of the incident commander of the event.

2. In the event BWC recording is limited or altered, the incident commander shall instruct officers on the types of activities that shall be recorded and document their orders in the after action report.

3. If certain law enforcement contacts are limited or altered, the officer is not required to complete a memorandum as directed in IV, B, 2, c, 2 above.

### 3. Restrictions on Using the BWC

- a. BWCs shall be used only in conjunction with official law enforcement duties.

- b. The BWC shall not generally be used to record:

1. Communications with other police department employees without the permission of the Chief of Police;

2. Encounters with undercover officers or confidential informants, unless the recording is authorized by a supervisor and is conducted specifically for the purpose of documenting a sting, drug purchase/sale or other undercover operation in furtherance of a criminal investigation;

3. When on break or otherwise engaged in personal activities; or

4. In any location where individuals have a reasonable expectation of privacy.

### C. Supervisory Responsibilities

1. Supervisors shall ensure that officers equipped with BWCs utilize them, maintain them and document BWC activation in accordance with department policy and procedures.

2. Supervisors should monitor that officers upload all captured BWC video to the current department storage solution as outlined above, or that the officer articulates, and they approve, any circumstances preventing this from taking place.

3. Supervisors shall review appropriate video from the BWC's of officers in their direct chain of command under the following circumstances:

- a. When a citizen complaint against an officer is received, or to review a specific incident in which the officer was involved.

- b. Following a certain incident, such as:

1. Officer involved shooting

2. Vehicle/foot pursuit

3. Injury to a prisoner

4. Injury to an officer

5. Response to resistance (Use of force by an officer)

6. Officer involved collision, etc.

c. As part of evaluating the performance of a probationary officer, including while the officer is in the FTO process.

d. When an IAPro/Personnel Early Warning System alert has been received or there is an allegation (internally or externally) of a pattern of abuse or misconduct, supervisors shall randomly audit at least one BWC video of the alerted officer, per week, for at least two months to evaluate performance and conduct. The review of BWC video should also include recordings that were made prior to the alert or allegation. The random audit shall be documented on a memorandum which shall be forwarded through the chain of command to the Public Integrity Unit upon completion.

e. When notified by an officer of a situation recorded on the BWC that, in the officer's opinion:

1. May result in a complaint, or

2. May otherwise be beneficial for the supervisor to review

f. At the supervisor's discretion for circumstances not included in the above list.

4. Supervisors may also review a specific incident recording for the purpose of training, critique, early intervention inquiries or for investigative purposes.

5. Upon notification or discovery of a malfunctioning BWC, the supervisor shall contact the System Administrator or designee and coordinate replacement and/or repair.

#### D. Public Integrity Unit Responsibilities

1. In order to ensure compliance with the BWC policy, department policy and procedures, and to evaluate the overall performance of officers, the Public Integrity Unit shall conduct a random monthly audit of BWC videos as determined by the Chief of Police or designee.

2. This random audit will identify instances where a BWC video has been taken or should be taken according to this policy and videos selected for the audit will be reviewed.

3. The Public Integrity Unit shall compile and track instances where a body worn camera should have been activated but was not, for reasons identified in Section IV. B. 2. c. above.

#### E. Statutory Provisions for DUI Cases

1. KRS 189A.100 specifically addresses the procedures for securing, reviewing, maintaining and destroying video and audio evidence in DUI cases.

2. Recordings of field sobriety tests, administered at the scene of an arrest, for a violation of KRS 189A.010 (DUI) or such tests at a police station, jail or other facility shall be subject to

the following conditions:

- a. The testing is recorded in its entirety (except for blood alcohol and analysis testing); and
- b. The recording shall be used for official purposes only, which shall include:
  1. Viewing in court
  2. Viewing by the prosecution and defense in preparation for a trial; and
  3. Viewing for the purposes of administrative proceedings
3. Recordings shall otherwise be considered confidential records.
4. Recordings taken as a result of a DUI shall, upon order of the District Court, be destroyed after the latter of the following:
  - a. 26 months after a decision has been made not to prosecute any case upon which arrest has been made, or a citation issued as a result of the recording, and there is no appeal of any criminal or traffic case filed as a result of the recording; or
  - b. All appeals have been exhausted, arising from any criminal or traffic case filed as a result of the recording; or
  - c. At the conclusion of any civil case, arising from events depicted on the recording; or
  - d. At the conclusion of all appeals from any law enforcement agency's administrative proceedings, arising from events depicted on the recording.
5. Officers utilizing, or showing, recordings of DUI arrests, other than as permitted in this section, or permitting others to do so, shall be in violation of KRS 189A.100(2)(g).

#### **F. Storage**

1. All BWC files shall be securely uploaded per currently approved department procedures.
2. All access to BWC files shall be audited as directed by the Chief of Police to ensure that only authorized users are accessing the data for legitimate and authorized purposes.

#### **G. Review of BWC Files**

1. For certain purposes, officers may review their own BWC video recording unless otherwise restricted by this policy.
  - a. Once uploaded to the server, an officer may view his or her own audio/video data at a department computer by logging into the current department storage solution and documenting the specific reason for access on the video file page in the "NOTES" section prior to viewing any data, unless exempted by the Chief of Police.



- b. The current department storage solution automatically time/date stamps and records each access by officer name.
2. Officers shall be allowed to review video from the BWC in the following instances:
- a. Completing an incident report following an arrest
  - b. Prior to courtroom testimony or for courtroom presentation.
  - c. A Field Training Officer may review his or her BWC video files, as well as the BWC video file of an officer he or she is currently field training, to provide immediate training and to assist with the completion of the Daily Observation Report.
  - d. A detective or officer assigned a case that involves BWC video(s) shall be permitted access to review the video(s). Proper documentation will also be added to the “NOTES” section of the current department storage solution prior to viewing any video(s).
3. Officers shall not view BWC video files prior to making an administrative statement in the following instances:
- a. When the actions of an officer result in any individual’s death or serious physical injury.
  - b. When lethal force is used.
4. Officers shall not view any other officer’s BWC footage prior to making an administrative statement or completing reports relating to a critical incident or case reports.
5. Once an officer has made an administrative statement in the instances outlined in 3 above, the officer will ordinarily be afforded an opportunity to review the video and clarify anything the officer observed in the video.
6. The department reserves the right to limit or restrict, and a supervisor may limit or restrict any officer from viewing any video file related to the following incidents:
- a. An officer-involved shooting
  - b. Other serious use of force
  - c. Any time an officer is suspected of inappropriate conduct.

#### **H. BWC File Requests**

##### **1. Interagency Requests**

- a. Interagency requests for BWC files, to include requests from the Fayette County Commonwealth’s Attorney or the Fayette County Attorney, shall be submitted via currently approved department methods.

b. Sufficient information to locate the proper BWC file will be included in the request.

## **2. Public Requests**

a. All other requests for a BWC file, including media inquiries, shall be accepted, received and processed in accordance with federal, state, and local statutes and department policy.

b. The release of recordings to any person shall be made in accordance with current department policy and procedures, and pursuant to requirements of applicable law, including but not limited to the Kentucky Open Records Act.

c. Only that portion of a recording which contains a specific contact in question shall be reproduced.

## **3. BWC Files Related to Criminal or Internal Investigations**

a. Any department investigator conducting a criminal or internal investigation shall promptly advise, via currently approved department methods, the System Administrator to restrict access/public disclosure of the BWC file(s) in a criminal or internal investigation, when necessary.

1. Investigators shall notify the System Administrator to remove the access restriction when the investigation is closed.

b. Any department investigator who accesses the BWC file(s) shall:

1. Document the reason for access by entering the related case number on the BWC “NOTES” field prior to viewing, unless exempted by the Chief of Police or designee.

2. Review the file to determine whether the BWC has evidentiary value and process in accordance with established procedures.

## **4. Recommendation to Use a BWC File as a Training Tool**

a. A BWC file may be utilized as a training tool for individual officers, specific units, and the department as a whole.

b. A person recommending utilization of a BWC file for training purposes shall submit the recommendation through the chain of command.

1. Any involved officer or employee in the recommended BWC file shall receive mandatory notification from the Training Section that a BWC file in which they appear has been recommended for use as a training aid.

2. If an involved officer or employee objects to the showing of a recording, his or her objection will be submitted to the Chief of Police to determine if the employee’s objection outweighs the training value.

c. The Chief of Police or designee shall review the recommendation and determine how best to utilize the BWC file. Considerations include:

1. The identity of the persons involved
2. Sensitivity of the incident
3. Benefit of utilizing the BWC file versus other options

d. Under no circumstances shall any recordings be used or shown for the sole or primary purpose of bringing ridicule or embarrassment upon any officer, employee, citizen, or group.

#### I. Records Retention

1. BWC recordings shall be retained for a minimum of 30 days (non-evidentiary recordings), with the exception of those recordings which need to be retained longer (evidentiary recordings) due to an investigation (including criminal, administrative, etc.), litigation or open records request.

a. These recordings shall be maintained until all investigative or legal proceedings are completed, pursuant to KRS or applicable records retention schedules.

2. Recordings containing DUI video evidence shall be maintained and destroyed pursuant to KRS 189A.100.

3. All digital video and audio files are subject to open records requests as allowed by Kentucky law. Recordings that are the subject of a denied open records request shall be maintained until the dispute between the department and the person or entity requesting the records is resolved.

4. Requests for deletion of a recording:

a. In the event of an activation of the BWC during non-enforcement or non-investigative activities (e.g., restroom or meal breaks, personal and/or private conversations of an officer unrelated to any ongoing criminal or internal investigation, a situation that otherwise has no valid official purpose or no apparent evidentiary or investigative value), the recording officer may request for the deletion of the recorded video file by:

1. Forwarding a memorandum detailing the circumstances of the unintentional recording to the officer's bureau Assistant Chief.

a. The request should contain sufficient information to locate the proper BWC video file.

2. Requests for deletion of portions of the recordings shall be approved by the Chief of Police or designee in accordance with state record retention laws.

3. The BWC file shall be reviewed by the Chief's designee to approve or

deny the request, and to forward his or her decision to the System Administrator.

4. If approved, the deletion will be made by the System Administrator.

a. The System Administrator shall keep a copy of the email authorizing the deletion, should any future issues arise regarding the deleted recording.

5. All requests and final decisions shall be kept on file.